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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,088	05/19/2000	Daniel J. Guinan	NAN00-001	9765
23838	7590	11/17/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			HAVAN, THU THAO	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/575,088

**Applicant(s)**

GUINAN, DANIEL J.

**Examiner**

Thu Thao Havan

**Art Unit**

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Detailed Action**

#### ***Response to Amendment***

Claims 44-61 are pending. This action is in response to the amendment received August 24, 2005.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 44-61 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Drawings***

The Examiner accepts the drawings filed on May 19, 2000.

#### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **44-61** are rejected under 35 U.S.C. 102(e) as being anticipated by Pallakoff et al. (US 6,269,343).

Re claims **44**, **50**, and **56**, Pallakoff teaches a method for transacting multi-party electronic commerce over a network (col. 1, lines 10-13 and lines 53-67; fig. 1, elements 11-11x; multi-party electronic commerce corresponds to sellers), comprising:

creating a plurality of atomic offers associated with a plurality of suppliers (fig. 2, element 23 and fig. 3, element 31; sellers create plethora of offers in relation to products);

creating a plurality of hierarchical offers based on the plurality of atomic offers, the plurality of hierarchical offers including (col. 4, line 20 to col. 5, line 45; fig. 3, element 31):

at least one first-level offer including at least one of the plurality of atomic offers (col. 4, lines 20-36; Pallakoff teaches different levels of offers by having different price ranges for different products at various levels. For example, first-level is 2 to 5 balls for \$10 while second-level is 6 to 20 balls at \$8),

and

at least one second-level offer including the first-level offer and at least one of the plurality of atomic offers not included within the first-level offer (col. 8, lines 22-40; col. 4, lines 20-36; Pallakoff teaches different levels of offers by having different price ranges for different products at various levels. For example, first-level is 2 to 5 balls for \$10 while second-level is 6 to 20 balls at \$8);

creating at least one counter offer associated with a consumer (col. 11, lines 25-52; Pallakoff discloses counter offer by allow buyers to include offers after an initial offer);

storing the plurality of atomic offers, the plurality of hierarchical offers and the counter offer in a memory (col. 3, lines 5-27; figs. 6 and 9; Pallakoff discloses electronic commerce system in a computer system. Thus, all computer system has a memory to store information as specified in figure 6);

matching the counter offer to one of the plurality of hierarchical offers to create a zero-sum offer (col. 8, lines 28-53; matching counter offer corresponds to finalizing the price in relation to the offer); and

closing the zero-sum offer (col. 8, lines 54-62; Pallakoff closes the zero-sum offer by shipping the requested products).

Re claims **45**, **51**, and **57**, Pallakoff teaches each of the plurality of atomic offers include an atomic offer description and an atomic offer price (fig. 2, element 23); each first-level offer includes: a first-level fee, a first-level description based on each of the included atomic offer descriptions, and a first-level price based on the first-level fee and each of the included atomic offer price (col. 4, lines 20-36); each second-level offer includes: a second-level fee, a second-level description based on the first-level description and each of the

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included atomic offer descriptions, and a second-level price based on the second-level fee, the first-level price, and each of the included atomic offer prices (col. 8, lines 22-40); the counter offer includes a counter offer description and a counter offer price; and said matching the counter offer includes comparing the counter offer description and price to each first-level and second-level description and price, respectively, to determine a match (col. 8, lines 28-53).

Re claims **46, 52, and 58**, Pallakoff teaches zero-sum offer includes an atomic offer corresponding to each of the atomic offers included within the first-level and second-level offers (col. 8, lines 54-62; figs. 3-4).

Re claims **47, 53, and 59**, Pallakoff teaches determining whether each atomic offer included within the zero-sum offer is expired, invalid or unavailable and if so determined, not closing the zero-sum offer (figs. 5 and 8). In figure 8, Pallakoff cancelled the offer if there wasn't enough demand by time-limit.

Re claims **48, 54, and 60**, Pallakoff teaches closing the zero-sum offer includes closing each atomic offer included within corresponding first-level and second-level offers (col. 6, lines 6-35).

Re claims **49, 55, and 61**, Conklin teaches closing each atomic offer includes: sending a payment based on the atomic offer price from the consumer to the supplier associated with the atomic offer and at least one of shipping a product associated with the atomic offer to the consumer and providing a service associated with the atomic offer to the consumer (col. 5, lines 38-45). Pallakoff ships out the offers by closing the sale.

### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Glassco et al, US 2003/0195759

Spiegel et al. (US 6,466,918)

Heilman, JR, US 2001/0034689

Aggarwal et al., US patent no. 6,886,000

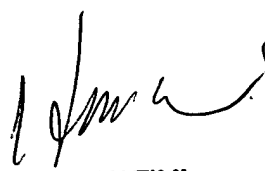
Conklins et al, US 6,338,050

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**